

Appln. No 10/566,167  
Reply to Office Action of 08/18/2008

### **REMARKS / ARGUMENTS**

This communication is in response to the Office Action mailed August 18, 2008.

Claims 1, 3 - 9 and 11 - 18 remain in the application. Claims 2 and 10 have been withdrawn. Claims 15 - 18 have been allowed. Claims 1, 5 - 9 and 12 - 14 have been rejected. Claims 3, 4, and 11 have been objected to.

With this response, amendments to Claims 1, 4 - 8 and 13 are being submitted.

### ***Claim Objections***

#### **Objections to Claims 1, 4 - 8 and 11**

##### **(a) Objections to the term "like"**

The Examiner has objected to the use of the term "like" as recited in claims 1, 8 and 11 as being indefinite. He has indicated that it is unclear whether "like" components are identical or the components are of complimentary shape relative to one another.

It should be noted that the term "like" has a well understood dictionary meaning *inter alia* "... having the same characteristics or qualities as; similar to ...". Necessarily, this meaning encompasses "identical" (the Examiner's interpretation). But, the claim language does not require the components to be literally "identical". As currently amended, the specific language used in claims 1 and 8 is:

*A composite form ... comprising (or, in claim 8, ... a composite form comprising):*

*... (c) first and second coupling means formed integrally with said form:*

- (i) said first coupling means for fully coupling said form with a like second coupling means of a first complimentary shaped like form extending above said form; and,*
- (ii) second coupling means for fully coupling said form with a like first coupling means of a complimentary shaped second like form extending below said form.*

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The term "like" is not used in an abstract sense. It is used, and it is respectfully submitted that it should be read, in a purposeful manner which requires a degree of likeness sufficient "for fully coupling" one component to another. The phrase "fully coupling" is discussed below.

As the Examiner has indicated, one might say that the coupling components are of complimentary shape relative to one another. The applicant does not disagree, but questions the necessity for clarification in the claims because complimentary shapes are necessarily an inherent attribute of the ability to fully couple. Nevertheless, to advance prosecution, the phrase "complimentary shaped" has been added to claims 1 and 8. Note that the amended claims require the forms to be complimentary shaped. If the forms are complimentary shaped, the coupling means of the forms are necessarily complimentary shaped. This phrase "complimentary shaped" has not been added to claim 11 because the recited "said second like form" in claim 11 is the "complimentary shaped second like form" recited in claim 8 from which claim 11 depends.

In claims 1 and 8, it should also be noted that there is only one antecedent for "like second coupling means", namely the "second coupling means" specified in the preamble of paragraph (c). The second coupling means specified in the preamble is necessarily a second coupling means of the specified form. Thus, as recited in paragraph (c)(i), the first coupling means of the claimed form is for fully coupling with the like second coupling means of the first like form.

Likewise, there is only one antecedent for "like first coupling means", namely the "first coupling means" also specified in the preamble of paragraph (c). The first coupling means specified in the preamble is necessarily a first coupling means of the specified form. Thus, as recited in paragraph (c)(ii), the second coupling means of the claimed form is for fully coupling with the like first coupling means of the second like form.

In view of amendments to claims 1 and 8, it is respectfully submitted that the objections to the term "like" as used in the claims should be withdrawn.

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(a) Objections to the phrase "fully coupling"

Under the heading of Claim Objections, the Examiner objected that the meaning of the phrase "fully coupling" is unclear, and that he interprets the phrase as meaning that a secure coupling "has been" established between elements. Further, under the heading of Response to Arguments on pages 5-6 of the Office Action, the Examiner stated that the term "fully" as recited in the claims is not equivalent to "without any added element" as asserted by the applicant [viz. in response to the last Office Action] and, therefore, that the claim limitations do not preclude the use added elements to fully couple one form located above or below said first form.

Firstly, by "elements" it is assumed that the Examiner is referring to the forms. With this understanding, it should be noted that the claims do not specify that a secure coupling "has been" established between elements / forms. Independent claims 1 and 8, and claim 11 depending from 8, each specify a composite form, and not a combination of forms. The claims per se do not require a coupling to be established. They specify a single form and merely require that it include the specified means to enable coupling of the specified form with other like forms. Potential infringers would include not only those who combine and couple one or more forms, but also those who manufacture individual forms.

Secondly, the term "fully" has a well understood dictionary meaning *inter alia* "...completely or entirely; to the furthest extent ...". It is respectfully submitted that while this meaning may not exclude an added element and may not preclude the use of an added element, it certainly excludes the necessity of an added element.

Finally, it is important to read the phrase "fully coupling" in the context of the claims as a whole. As originally presented, claims 1 and 8 specified "first and second coupling means integral with said form". For added clarity, they have been amended to read "formed integrally with said form" (emphasis added). The language "formed integrally" appears elsewhere throughout the claims.

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It is respectfully submitted that an element formed integrally with the claimed form for fully coupling the claimed form with another like form clearly excludes the necessity of an added element. Assuming arguendo that it was not considered to do so, it clearly excludes an added element such as connecting rod 3 of Shimada (see below) which is clearly not "formed integrally" with Shimada's form.

In view of amendments to claims 1 and 8, it is respectfully submitted that the objections to the phrase "fully coupling" as used in the claims should be withdrawn.

(c) Objection to Claim 6

As required by the Examiner, claim 6 has been amended to insert the word "said" before "bosses" in line 3 of the claim.

(d) Objection to Claims 4 - 7

The Examiner objected to these claims as being dependent upon withdrawn claim 2. These claims have been currently amended to remove dependency on claim 2. However, it is to be noted that these claims are multiply dependent and that claim 2 was withdrawn without prejudice in view of the Examiner's election of species requirement. The amendment to claims 4 - 7 to remove dependency on claim 2 has similarly been made without prejudice.

In the circumstances, it is respectfully submitted that the Examiner's objection to claims 4 - 7 is now moot.

It also should be noted that multiply dependent claim 13 also depended from claim 2. Although the Examiner did not object, it has likewise been amended to remove dependency on claim 2, but again without prejudice.

***Claim Rejections 35 U.S.C. § 102***

The Examiner has rejected claims 1, 6 and 7 as being "anticipated" (lack of novelty) by Shimada - meaning that all the elements specified in claims 1, 6 and 7 are to

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be found in Shimada. But, the veracity of this rejection turns in large part on the Examiner's interpretation of the phrase "fully coupling".

The scrutiny which the Examiner has applied to claim 1 in view of Shimada is fully appreciated. It presents a contrary point of view which invites the applicant to carefully consider whether the claim language is appropriate - a controversy which is best addressed during the pendency of the application.

That being said, it is significant to note that the "second coupling means" of Shimada as rightly characterized by the Examiner includes "rod 3". For reasons discussed above, rod 3 is clearly an "added element" which is not "formed integrally" with the composite form as required by claim 1. Thus, Shimada fails to teach or suggest a composite form which may be fully coupled both above and below with other like forms except with an added element such as rod 3 which is not "formed integrally".

As indicated in response to the first Official Action, Shimada's need for rod 3 is quite disadvantageous. It requires forms which are to be coupled to be properly aligned and held in place while rod 3 is inserted to achieve the desired coupling. This requires not only an added part (rod 3) which is not integrally formed but, in the field, also dictates added labor and added cost to achieve the desired coupling.

Accordingly, it is respectfully submitted that the rejection of claim 1 under 35 U.S.C. § 102 should be withdrawn and that the claim should be allowed. Likewise, it is respectfully submitted that the rejections of claims 6 and 7 should be allowed because they depend from an allowable claim.

#### ***Claim Rejections 35 U.S.C. § 103***

It is noted that previous objections under this heading (Shimada in view of Byles) effectively have been withdrawn.

The Examiner has now rejected claims 5, 8, 9 and 12-14 on the ground that they are unpatentable (obvious) over Shimada in view of Vidal et al. This rejection is new.

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Since all of these claims depend directly or indirectly on independent claims 1 and 8, it is respectfully submitted that they should be considered allowable in view of the foregoing submissions with respect to claims 1 and 8 which distinguish the patent to Shimada.

Otherwise, it is respectfully submitted that the Examiner has mischaracterized the patent to Vidal et al. Vidal et al. does not teach a geogrid filter 12 which is integral with a [wire] mesh cover 6 or which fits within regions defined by supporting ribs. At Col. 4, lines 38-40, Vidal et al teach:

*"A geotextile filter cloth 12 fits behind the mesh cover 6 to prevent fine soil particles escaping from the facing" (emphasis added).*

Side note: On page 4, second paragraph, of the Office Action, the Examiner refers to "geotextile filter cloth 12" of Vidal et al. This is a correct reference. But, on the same page, third paragraph, the Examiner refers to "geogrid filter 12". This is an incorrect reference. It is assumed that the Examiner meant to say "geotextile filter 12". There is no such thing as a geogrid filter, at least none that is known to the applicant. A geotextile filter cloth is a woven structure separate and distinct from a geogrid.

The term "fits behind" is not synonymous with "formed integrally with said form" as recited in claims 5 and 12. Vidal et al's mesh cover 6 is one thing. It is formed from wire. Filter cloth 12 is quite another. It is formed from cloth. There is no teaching or suggestion that they should be integrally formed or whether or how they might be integrally formed. Likewise there is no teaching or suggestion of the advantages which can be gained by an integral formation. In contrast, FIG. 7 of the present application and the description with respect thereto points clearly to at least one advantage - the ability to easily create desired voids in a hydroseeding screen for larger plants. Another advantage is that an integrally formed hydroseeding screen represents only one part to be managed and handled in the field. The system of Vidal et al. requires the management and handling of two parts, one being mesh cover 6; the other being filter cloth 12.

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Regarding claims 13 and 14, the Examiner asserted that Shimada in view of Vidal et al. discloses all of the limitations except for the size of mesh screen openings and that the optimization of proportions in a prior art device is a design consideration. But, Vidal et al. merely teaches the use of a filter cloth with suitably sized openings to enable hydroseeding. They do not teach or suggest that suitable opening may be integrally formed within "unique regions" of a composite form bounded by "ribs" as recited in claims 5, 12, 13 and 14.

Accordingly, it is respectfully submitted that the rejection of claims 5, 8, 9 and 12 - 14 under 35 U.S.C. § 103 should be withdrawn and that the claims should be allowed.

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Favorable consideration is respectfully solicited. If the Examiner has any questions about the present amendments or anticipates finally rejecting any claim in the present application, then a telephone interview is requested.

Respectfully submitted,



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